

MOTOR VEHICLES

Motor Vehicle Air Conditioners

Summary

- The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) registers businesses that service motor vehicle air conditioners (see Wisconsin Statutes section 100.45).
- DATCP has adopted rules to regulate service practices and refrigerant sales (see Wisconsin Administrative Code chapter ATCP 136). The rules protect consumers and prevent the release of ozone-depleting refrigerants.

Annual Registration

A business that does any of the following must register annually with DATCP:

- Installs or services motor vehicle air conditioning or trailer refrigeration systems.
- Repairs motor vehicles, if the repairs may release refrigerant from mobile air conditioners or trailer refrigeration systems.
- Charges or evacuates any motor vehicle air conditioning or trailer refrigeration system.
- Operates refrigerant recovery or recycling equipment.

An application for a registration certificate must identify all the following:

- Each business location. There is a registration fee of \$120 per business location.
- Equipment used to perform licensed operations.
- Technicians who perform licensed operations. Technicians must meet training requirements.

Service Practices

Businesses that install refrigerant or service mobile air conditioners must:

- Refrain from adding refrigerant to leaking systems. Before adding refrigerant, the business must inspect for leaks and repair any leaks that may exist. The business must notify the customer before repairing the leaks.
- Take precautionary measures, when installing substitute refrigerants, to prevent harm to

persons and motor vehicles. The business must install adaptive parts, avoid commingling incompatible refrigerants, and apply labels to warn others of the substitution.

Prohibited Practices

A person may not:

- Intentionally or negligently release refrigerant into the environment.
- Fail to properly recover and recycle refrigerant.
- Employ untrained technicians to recover used refrigerant, or to repair or recharge mobile air conditioners. ATCP 136 spells out training requirements.
- Fail to keep adequate records. ATCP 136 spells out record keeping requirements.

Refrigerant Sales

ATCP 136 regulates sales of mobile air conditioner refrigerant:

- Refrigerant may be sold only to a registered installer, or to a person who resells the refrigerant in its original container to a registered installer.
- Refrigerant may *not* be sold in small, “do-it-yourself” containers holding less than 15 pounds.
- Refrigerant buyers and sellers must keep accurate records.
- Refrigerant sellers may not make deceptive sales claims. For example, a seller may not:
 - Misrepresent used refrigerant as new.
 - Misrepresent that used refrigerant has been properly recycled.
 - Represent a refrigerant as a substitute for another refrigerant unless the seller discloses the special repair and service requirements that apply (see above).

Flammable Refrigerants

DATCP has banned the sale of certain flammable refrigerants for use in mobile air conditioners (see Wisconsin Administrative Code chapter ATCP 139). DATCP adopted this ban under authority of Wisconsin Statutes section 100.37(2)(d). Persons who violate this ban are subject to the penalties and remedies provided in Wisconsin Statutes sections 100.37(4) to (8).

Rule Background (ATCP 136)

DATCP adopted ATCP 136 under authority of Wisconsin Statutes sections 93.07(1), 100.20(2) and 100.45.

- DATCP adopted ATCP 136 effective March 1, 1992.
- DATCP repealed and recreated ATCP 136 effective March 1, 1996.
- DATCP revised ATCP 136 effective March 1, 2001.

Rule Enforcement (ATCP 136)

Registration Certificate

DATCP may deny, suspend or revoke a registration certificate for cause, including violations of ATCP 136. See Wisconsin Statutes sections 93.06(7) and (8) and Wisconsin Administrative Code section ATCP 136.02.

Private Remedy

A person who suffers a monetary loss because of a rule violation (ATCP 136) may sue the violator under Wisconsin Statutes section 100.20(5), and may recover double damages, costs and attorney fees.

Injunction and Restitution

DATCP may seek a court order, under Wisconsin Statutes section 100.20(6), enjoining violations of ATCP 136 and ordering restitution to consumers. The Department of Justice or a district attorney may represent DATCP in court.

Civil Forfeiture

- A district attorney may start a court action, under Wisconsin Statutes section 100.45(6), to recover a civil forfeiture from a person who violates ATCP 136. The court may impose a civil forfeiture of not less than \$50 nor more than \$1,000 per violation. Each transaction may constitute a separate violation.
- DATCP or a district attorney may start a court action, under Wisconsin Statutes section 100.26(6), to recover a civil forfeiture from a person who violates ATCP 136. The court may impose a civil forfeiture of up to \$10,000 per violation. The Department of Justice or a district attorney may represent DATCP in court.

Criminal

A district attorney may start a criminal prosecution, under Wisconsin Statutes section 100.26(3), against a person who violates ATP 136. A violator may be fined up to \$5,000 or sentenced to as much as a year in jail, or both.